

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Civil No. 05-856 (DSD/RLE)

Jorge Valdovinos Barajas,
Petitioner,

v.

ORDER

State of Minnesota,
Respondent.

This matter is before the court upon petitioner's objections to the report and recommendation of Magistrate Judge Raymond L. Erickson dated February 15, 2006. In his report, the magistrate judge concluded that the petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 should be dismissed with prejudice.

The court reviews the reports and recommendations of the magistrate judge de novo. 28 U.S.C. § 636(b)(1)(C). Petitioner objects to the magistrate judge's conclusion that the rules set forth in Blakely v. Washington, 542 U.S. 296 (2004), and United States v. Booker, 543 U.S. 220 (2005), do not apply retroactively to petitioner's claim for post-conviction relief. The court finds that the report and recommendation of the magistrate judge is well-reasoned and correctly disposes of petitioner's claim. See Never Misses A Shot v. United States, 413 F.3d 781, 783 (8th Cir. 2005) (Blakely and Booker do not apply retroactively on collateral review). Therefore, the court adopts the report and recommendation of the magistrate judge in its entirety.

Accordingly, **IT IS HEREBY ORDERED** that:

1. Petitioner's application for habeas corpus relief under 28 U.S.C. § 2254 [Doc. No. 1] is denied.
2. This action is dismissed with prejudice.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: March 7, 2006

s/David S. Doty
David S. Doty, Judge
United States District Court